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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,347

01/26/2006

Andreo Larsen

75692/JPW/JW

1671

23432 7590 07/21/2008  
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EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

07/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,347	<b>Applicant(s)</b> LARSEN, ANDREO	
	<b>Examiner</b> Lynne Anderson	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/26/06</u>   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8 and 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Berg (4,863,448).

3. With respect to claims 1 and 2, Berg discloses a sheath 10, as shown in figure 3, containing absorbent material 22, as shown in figure 4. The sheath further comprises fixing strips 52, as shown in figure 14, with adhesive surfaces bent to opposite sides of the sheath, as shown in figure 13. The adhesive is covered by a rip tag 50, as shown in figure 11, which is curved, as shown in figure 14, and therefore is substantially U-shaped. The rip tag is attached to the adhesive at opposite sides (i.e. opposite ends), as shown in figure 14. The rip tag encircles the outer surface of the sheath, as shown in figure 13, and therefore extends around the front side of the sheath.

4. With respect to claims 3-4 and 12-13, the rip tag is bent at its point of attachment to the adhesive coating, as shown in figure 14, and therefore is considered to be bent inwardly against the adhesive.

5. With respect to claims 5 and 14, the rip tag is dimensioned such that a gap forms between the tag and the sheath on both sides of the sheath, as shown in figure 13, and

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the gap is fully capable of receiving a user's finger during straightening of the fixing strips.

6. With respect to claims 6, 15, and 16, the rip tag has a protruding gripping point at a central point where the user may grip the tag, as shown in figure 14.

7. With respect to claims 7 and 17-19, the rip tag extends over and beyond the surface of the adhesive to form a gripping point, as shown in figure 14.

8. With respect to claim 8, the tip of the fixing strips attached to the sheath is not covered by the adhesive coating, and these portions of the fixing strips are fully capable of being pulled during removal of the device.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berg (4,863,448) in view of Figuerido (5,643,235).

11. Berg discloses all aspects of the claimed invention with the exception of the sheath and fixing strips being formed of a unitary piece of the same material. Berg discloses a sheath for an incontinent male having separate fixing strips attached thereon, as shown in figure 13. Figuerido discloses a sheath for an incontinent male having fixing strips 30 made from an extension of the sheath material, as shown in figure 3. This configuration obviates the need for additional material for forming the

fixing strips. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the sheath of Berg with fixing strips that are an extension of the sheath material, as taught by Figuerido, to obviate the need for additional material.

12. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berg (4,863,448) in view of Smith (4,601,716).

13. Berg disclose all aspects of the claimed invention with the exception of the absorbent material being fibrous. Smith teaches a sheath for an incontinent male including an absorbent material comprising fibrous cotton, as disclosed in column 2, lines 30-32. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the sheath of Berg with a fibrous absorbent material, since Smith teaches the use of fibrous absorbent material as providing a reasonable expectation of success for absorbing urine from an incontinent male.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 6,336,919 and 2,604,092 disclose sheaths having fixing strips. U.S. Patents 6,447,495 and 3,848,596 disclose release tabs for adhesive layers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./  
Examiner, Art Unit 3761

/Tatyana Zalukaeva/  
Supervisory Patent Examiner, Art Unit 3761